



The State of Texas House of Representatives

EDMUND KUEMPEL DISTRICT 46 • COMAL, GUADALUPE & KENDALL COUNTIES

ID# 12275
MJ

RQ-75

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APR 22 1991

Attorney General's Office
Tax Division

April 18, 1991

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APR 23 91

Opinion Committee

The Honorable Dan Morales
Attorney General of Texas
Supreme Court Building

Dear General Morales:

I respectfully request a formal opinion regarding an exemption of taxes for citizens in the City of Camp Wood, Texas. Enclosed you will find a letter from the law firm of Crawford, Crawford & Hughes that describes the exemption and the situation involved.

Sincerely,

Edmund Kuempel
Committee on House Administration

EK/jw
Enclosures

cc: Rep. Harvey Hilderbran

ACCOMPANIED BY ENCLOSURES —
FILED SEPARATELY



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

March 11, 1991

The Honorable Richard Tucker
Mayor, City of Camp Wood
P. O. Box 130
Camp Wood, Texas 78833

Dear Mayor Tucker:

I have reviewed the law relating to your question of whether the city can grant a tax exemption, if the exemption will affect the city's ability to pay debt service on its outstanding bonds. Unfortunately, I am unable to give a definitive answer to the question. However, I do think the answer is probably that the city cannot, at least not without adverse consequences, grant the exemption in those circumstances. Thus, it is highly advisable that the city, through the county attorney or through its legislative representative, seek a formal Attorney General opinion before taking such action.

The reason a formal opinion is especially important is that there is the distinct possibility that city council members voting for an exemption which would cause a default on the bonds would have personal liability to the bond holders. That is, enacting such an exemption might constitute an abuse of discretion or a bad faith action such that the council members would not be protected by any official immunity.

If the council wants to grant the exemption, the only reasonably sure protection I see against personal liability would be a favorable formal Attorney General opinion. It is beyond the scope of my expertise to predict for sure whether or not a favorable opinion would result, though, as I indicated above, I think it doubtful. Even if it were obtained, a lawsuit against individual city council members might still result, but, with a favorable Attorney General opinion, the members would be in a much better position to defend against it.

Please do not hesitate to contact me if you feel I can provide any additional information.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Thomassen", with a long horizontal flourish extending to the right.

Jim Thomassen
Assistant Attorney General
Chief, Public Finance Section

JT:jh

RECEIVED MAR 26 1991

Handwritten: 3/27 Homestead

CRAWFORD, CRAWFORD & HUGHES
ATTORNEYS AT LAW
218 NORTH GETTY STREET
UVALDE, TEXAS 78801

D. S. CRAWFORD (1894-1977)
D. S. CRAWFORD, JR.
PHILIP M. HUGHES

March 25, 1991

TELEPHONE
278-8271
AREA CODE 817

RE: City of Camp Wood, Texas

Honorable Harvey Hilderbran
Texas House of Representatives
P. O. Box 2910
Austin, TX 78769-2910

Dear Harvey:

Last January, an election was held in the City of Camp Wood, at the petition of the requisite number of citizens, on the proposition that the City should grant a homestead exemption of \$50,000.00 to resident taxpayers who are 65 years old or older and/or disabled, for ad valorem tax purposes. The proposition narrowly passed.

However, in September, 1990, the City issued \$1,140,000.00 in combined tax and revenue refunding bonds, for the purpose of refunding and refinancing an earlier bond issue created for the construction of the Camp Wood Convalescent Center. All ad valorem tax revenues of the City are pledged to the repayment of the bonds.

If the City now grants the exemption, tax revenues will obviously be lower than in the past, when only a \$3,000.00 homestead exemption was available, and lower tax revenues may impair the City's ability to pay debt service on the outstanding bonds.

The mayor of Camp Wood, Richard Tucker, has asked me to seek an opinion from the Attorney General of Texas as to whether the City can grant the exemption in view of the bond obligations. As you know, under Section 402.045 of the Government Code, the Attorney General may only give a formal opinion to a person listed in Section 402.042(b) of the Code, and cities are not among the persons who may request an opinion. Jim Thomassen, chief of the Attorney General's Public Finance Section, has suggested that the City seek the opinion through your office; enclosed, for your information, is a copy of Mr. Thomassen's letter of March 11, 1991, to Mayor Tucker.

Handwritten: Real County

Honorable Harvey Hilderbran
RE: City of Camp Wood, Texas

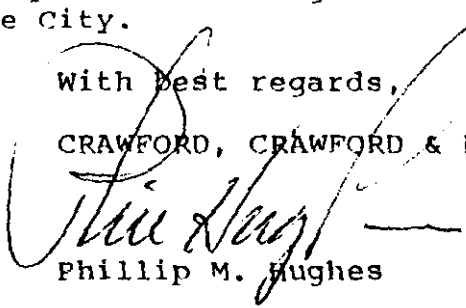
3/35/91
Page 2

Because this issue is of such critical importance to the City, we respectfully request that you seek a formal opinion on the issue from the Attorney General. Any additional information that is required we will promptly furnish.

Thank you very much for your assistance in this matter, and of course for your continuing interest in and strong representation of the City.

With best regards,

CRAWFORD, CRAWFORD & HUGHES



Phillip M. Hughes

PMH/bk

Enclosure

cc: Honorable Richard Tucker